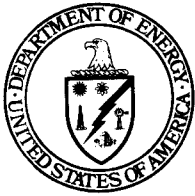


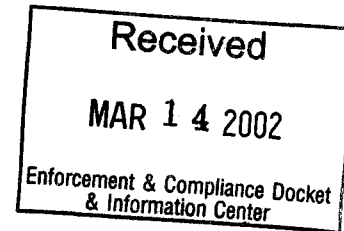
EC-2000-007
1V-D-181



Department of Energy

Washington, DC 20585
March 1, 2002

United States Environmental Protection Agency
Enforcement and Compliance Docket
and Information Center, (Mail Code 2201A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460



Attn: Docket Number EC-2000-007

The Department of Energy (DOE), Office of Fossil Energy appreciates the opportunity to comment on the Environmental Protection Agency's (EPA) Cross-Media Electronic Reporting and Record-Keeping (CROMERR) Rule (*Fed. Regist.* 2001, 66 (170), 46,161—46,195).

DOE applauds EPA's efforts to encourage and standardize electronic reporting and record-keeping. Advanced electronic data management techniques enable government and industry to make better regulatory decisions and reduce the cost of compliance with State and Federal regulatory programs. However, DOE believes that the proposed CROMERR Rule could retard rather than promote efforts of State oil and gas agencies and the regulated community to develop effective tools to generate, manipulate, analyze, and report data electronically.

Enclosed are the Department of Energy, Office of Fossil Energy's, comments on the proposed rule. These comments reflect the Office of Fossil Energy's concern with the impact of the CROMERR Rule on our stakeholders in State government and the domestic oil and gas industry. The comments do not address CROMERR Rule issues related to DOE as a regulated entity. Those comments were submitted to you on January 2, 2002, by Andy Lawrence, Director, Office of Environmental Policy and Guidance. If you have any questions or need further clarification of our comments, please call Peter Lagiovane of my staff on (202) 586-8116. You may also contact Mr. Lagiovane via email at: peter.lagiovane@hq.doe.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Michael Smith".

Carl Michael Smith
Assistant Secretary
Office of Fossil Energy

Enclosure



Printed with soy ink on recycled paper

**UNITED STATES DEPARTMENT OF ENERGY
COMMENTS ON
THE ENVIRONMENTAL PROTECTION AGENCY'S (EPA)
CROSS-MEDIA ELECTRONIC REPORTING AND RECORD-KEEPING (CROMERR)
RULE (FED. REGIST. 2001, 66 (170), 46,161—46,195)**

1. While the CROMERR Rule has been portrayed as voluntary, it appears to be mandatory for all EPA-mandated records kept on computers (with the exception of hazardous waste manifests, covered by a separate proposed rule). Consequently, all or most entities subject to EPA recordkeeping provisions would have to adapt their computer systems to meet CROMERR Rule requirements. This could have a devastating impact on ongoing efforts of State oil and gas agencies to digitize the recordkeeping and reporting data required by EPA. For example, DOE has worked with the Ground Water Protection Council (GWPC) to develop the Environmental Information Management Suite (EIMS). The EIMS program offers the flexible integration of highly customizable data management tools including its flagship application, the Risk Based Data Management System (RBDMS). EIMS has become the standard for data management in oil and gas producing States, with many State agencies now using RBDMS or an EIMS utility. Under the Proposed CROMERR Rule, State oil and gas agencies would have to convert all data stored in EIMS to a CROMERR-friendly format or return to a paper based data management system. Returning to a paper based data management system is not possible while the cost of converting this data to a CROMERR-friendly format could be prohibitive, especially for those States struggling to balance budgets and for whom the EIMS and the RBDMS was intended to save money. This leads to our following concern:
2. The financial burden on the regulated community as well as State oil and gas agencies appears to be underestimated. The Proposed Rulemaking does not clearly define the one-time capital cost, the costs associated with upgrading existing systems to meet CROMERR Rule electronic recordkeeping requirements, and the costs and resources associated with long-term archival storage and retrieval of electronic data. Further, EPA anticipates that, of the 162,185 facilities submitting electronic documents to EPA or the States each year, only a limited number (428) conduct electronic recordkeeping as specified under the proposed rule. DOE believes that the number of entities that will be subject to CROMERR Rule recordkeeping requirements is significantly larger.
3. In June, 1999, the Environmental Law Institute and EPA co-sponsored a symposium on "The Legal Implications of Environmental Electronic Reporting". The Symposium concluded that, *"the regulated community, EPA, States and the public need to collaborate in order to develop some consensus on what can be a consistent, 'seamless,' interoperable approach to electronic reporting that will produce legally acceptable and admissible data"*. Although EPA has discussed the proposed CROMERR Rule with stakeholders in State oil and gas agencies and in the regulated community and has solicited comments from these stakeholders, DOE believes that such outreach does not constitute a "collaboration". DOE recommends that EPA consider

creating an Environmental Information Cross-Media Electronic Reporting and Record-Keeping Standards Board. The Board, accredited by the American National Standards Institute (ANSI) and possibly modeled after the National Energy Standards Board (NAESB), would serve as a government/industry forum where the issues raised both in this letter and in other comments EPA received from States (e.g., the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission) and members of the regulated community could be addressed. DOE is prepared to assist EPA in this endeavor.

These comments summarize what DOE believes are the major concerns effecting the proposed CROMERR Rule. They do not include all the concerns our stakeholders have identified with the proposed CROMERR Rule nor do they address all the concerns with CROMERR Rule identified by other members of the regulated community. DOE believes, however, that while the concerns of States and various sectors of the regulated community may be different, the way to address and resolve these concerns is the same; creation of an independent, voluntary, government/industry, ANSI-accredited, electronic standards Board. Only by bringing together the diverse stakeholders whose interests are directly affected by the adoption of electronic standards for their activities can EPA hope to create, *"a consistent, 'seamless,' interoperable approach to electronic reporting that will produce legally acceptable and admissible data"*.